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ESTABLISHING A JOINT FEDERAL-STATE COMMISSION ON POLICIES AND PROGRAMS AFFECTING ALASKA NATIVES

SEPTEMBER 25 (legislative day, SEPTEMBER 18), 1989.—Ordered to be printed

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Mr. INOUYE, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 1364]

The Select Committee on Indian Affairs, to which was referred the bill (S. 1364) to establish a Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended do pass.

The amendment is an amendment in the nature of a substitute, as follows:

Strike all after the enacting clause and insert in lieu thereof the following:

FINDINGS AND PURPOSE

SECTION 1. (a) The Congress has conducted a preliminary review of the social and economic circumstances of Alaska Natives and of governmental policies and programs affecting Alaska Natives and finds that—

(1) in this period of rapid cultural change, there is, among Alaska Natives, a growing social and economic crisis characterized by, among other things, alcohol abuse and violence, grave health problems, low levels of educational achievement, joblessness, a lack of employment opportunities, and a growing dependency upon transfer payments;

(2) these conditions exist even though public policies and programs adopted in recent decades have been intended to assist Alaska Natives in protecting their traditional cultures and subsistence economies and in encouraging economic self-sufficiency and individual, group, village, and regional self-determination; and

(3) Alaska Natives and the State of Alaska have expressed a need for a review of public policies and programs and a desire to make such policies and programs more effective in accomplishing their intentions.

(b) The Congress hereby declares that it is timely and essential to conduct, in cooperation with the State of Alaska and with the participation of Alaska Natives, a comprehensive review of Federal and State policies and programs affecting Alaska

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Natives in order to identify specific actions that may be taken by the United States and the State of Alaska to help assure that public policy goals are more fully realized among Alaska Natives.

ESTABLISHMENT OF THE COMMISSION

SEC. 2. (a) There is hereby established a commission to be known as the "Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives" (hereafter referred to in this Act as the "Commission").

(b)(1) The Commission shall consist of the following members:

(A) seven individuals appointed by the President, at least three of whom shall be Alaska Natives and not more than two of whom may be officers or employees of the Federal Government,

(B) seven individuals appointed by the Governor of the State of Alaska,

(C) the President of the Senate of the State of Alaska or a designated representative of such President,

(D) the Speaker of the House of Representatives of the State of Alaska or a designated representative of such Speaker,

(E) the chairman of the Select Committee on Indian Affairs of the Senate or a designated representative of such chairman,

(F) the ranking minority member of the Select Committee on Indian Affairs of the Senate or a designated representative of such member,

(G) the chairman of the Committee on Energy and Natural Resources of the Senate or a designated representative of such chairman,

(H) the ranking minority member of the Committee on Energy and Natural Resources of the Senate or a designated representative of such member,

(I) the chairman of the Committee on Interior and Insular Affairs of the House of Representatives or a designated representative of such chairman,

(J) the ranking minority member of the Committee on Interior and Insular Affairs of the House of Representatives or a designated representative of such member, and

(K) each Member of Congress who represents the people of the State of Alaska and is not described in any of the preceding paragraphs, or a designated representative of such Member.

(2) The Commission shall hold its first meeting by no later than the date that is 30 days after the date on which all members of the Commission who are to be appointed have been appointed.

(3) Each member of the Commission who is appointed to the Commission under subparagraph (A) or (B) of paragraph (1) shall be entitled to one vote which shall be equal to the vote of every other member of the Commission who is appointed to the Commission under subparagraph (A) or (B) of paragraph (1). The members of the Commission described in a subparagraph of paragraph (1) other than subparagraph (A) or (B) shall be ex officio, nonvoting members of the Commission.

(4) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(5) In making appointments to the Commission, the President and the Governor of Alaska shall give careful consideration to recommendations received from Alaska Native village, regional, and State organizations.

(6) At the time appointments are made under paragraph (1), the President shall designate an individual appointment under paragraph (1)(A) to be co-chairman of the Commission and the Governor of the State of Alaska shall designate an individual appointed under paragraph (1)(B) to be the other co-chairman of the Commission.

(7) Eight voting members of the Commission shall constitute a quorum for the transaction of business.

(8) The Commission may adopt such rules (consistent with the other provisions of this Act) as may be necessary to establish its procedures and to govern the manner of its operations, organization (including task forces), and personnel.

(c)(1) Each member of the Commission not otherwise employed by the United States Government or the State of Alaska shall receive compensation at a rate equal to the daily rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties (including service on a task force) authorized by the Commission.

(2) Except as provided in paragraph (3), a member of the Commission who is otherwise an officer or employee of the United States Government or the State of Alaska shall serve on the Commission without additional compensation.

(3) All members of the Commission shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Commission while away from home or their regular place of business, in accordance with subchapter 1 of chapter 57 of title 5, United States Code.

(d) Notwithstanding the other provisions of this Act, no individual appointed to the Commission by the Governor of the State of Alaska under subsection (b)(1)(B) shall participate in the proceedings of the Commission, vote on business of the Commission, or receive any compensation or expense reimbursement under this Act until the State of Alaska and the President have concluded an equitable agreement to share the expenses incurred by the Commission. In the event that such an agreement is not reached within a reasonable period of time, the members of the Commission described in any subparagraph of subsection (b)(1) other than subparagraph (B) shall proceed with the work of the Commission without the participation of the individuals appointed under subsection (b)(1)(B) and the quorum required for the transaction of the business of the Commission shall be 4 members of the Commission appointed under subsection (b)(1)(A).

(e) The principal office of the Commission shall be in the State of Alaska.

DUTIES

SEC. 3. The Commission shall—

(1) conduct a comprehensive study of—

(A) the social and economic status of Alaska Natives, and

(B) the effectiveness of those policies and programs of the United States, and of the State of Alaska, that affect Alaska Natives,

(2) conduct public hearings on the subjects of such study,

(3) recommend specific actions to the Congress and to the State of Alaska that—

(A) help to assure that Alaska Natives have life opportunities comparable to other Americans, while respecting their unique traditions, cultures, and special status as Alaska Natives,

(B) address, among other things, the needs of Alaska Natives for self-determination, economic self-sufficiency, improved levels of educational achievement, improved health status, and reduced incidence of social problems,

(4) in developing those recommendations, respect the important cultural differences which characterize Alaska Native groups,

(5) submit, by no later than the date that is 18 months after the date of the first meeting of the Commission, a report on the study, together with the recommendations developed under paragraph (3), to the President, the Congress, the Governor of the State of Alaska, and the legislature of the State of Alaska, and

(6) make such report available to Alaska Native villages and organizations and to the public.

POWERS

SEC. 4. (a)(1) Subject to such rules and regulations as may be adopted by the Commission, the co-chairman of the Commission shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director of the Commission and of such other personnel as the co-chairman deem advisable to assist in the performance of the duties of the Commission, at rates not to exceed a rate equal to the maximum rate of GS-18 of the General Schedule under section 5332 of such title; and

(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of such General Schedule.

(2) Service of an individual as a member of the Commission shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service

in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(b)(1) The Commission is authorized to—

(A) hold such hearings and sit and act at such times,

(B) take such testimony,

(C) have such printing and binding done,

(D) enter into such contracts and other arrangements,

(E) make such expenditures, and

(F) take such other actions,

as the Commission may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) The Commission is authorized to establish task forces which include individuals appointed by the Commission who are not members of the Commission only for the purpose of gathering information on specific subjects identified by the Commission as requiring the knowledge and expertise of such individuals. Any task force established by the Commission shall be chaired by a voting member of the Commission who shall preside at any task force hearing authorized by the Commission. No compensation (other than compensation under section 2(c)(1) to a member of the Commission) may be paid to members of a task force solely for their service on the task force, but the Commission may authorize the reimbursement of members of a task force for travel and per diem in lieu of subsistence expenses during the performance of duties while away from the home, or regular place of business, of the member, in accordance with subchapter I of chapter 57 of title 5, United States Code. The Commission shall not authorize the appointment of personnel to act as staff for the task force, but may permit the use of Commission staff and resources by a task force for the purpose of compiling data and information. Such data and information shall be for the exclusive use of the Commission.

(c) The Commission is authjorized to accept gifts of property, services, or funds and to expend funds derived from sources other than the Federal Government, including the State of Alaska, private nonprofit organizations, corporations, or foundations which are determined appropriate and necessary to carry out the provisions of this Act.

(d) The provisions of the Federal Advisory Committee Act shall not apply to the Commission established under this section.

(e)(1) The Commission is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require for the purpose of this section, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made by a co-chairman of the Commission.

(2) Upon the request of both co-chairman of the Commission, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

TERMINATION

SEC. 5. The Commission shall cease to exist on the date that is 180 days after the date on which the Commission submits the report required under section 3(5). All records, documents, and materials of the Commission shall be transferred to the National Archives and Records Administration on the date on which the Commission ceases to exist.

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. (a) There are authorized to be appropriated to the Commission $700,000 to carry out the provisions of this Act. Such sum shall remain available, without fiscal year limitation, until expended.

(b) Until funds are appropriated under the authority of subsection (a), salaries and other expenses incurred by the Commission shall be paid from the contingent fund of the Senate upon vouchers approved by the co-chairman of the Commission. The total amount of funds paid from such contingent fund shall be reimbursed to such contingent fund from funds appropriated under the authority of subsection (a).

PURPOSE

The purpose of S. 1364 is to establish a joint Federal-State commission to review Federal and State policies and programs affecting Alaska Natives in order to develop recommendations for the consideration of the United States and the State of Alaska which would result in the improvement of the social and economic status of Alaska Natives.

BACKGROUND

The critical social ills and uncertain futures facing Alaska Natives today were the subject of two hearings by the Select Committee on Indian Affairs in 1989. The first of these hearings, held on March 3 in Washington, DC, focussed on a report of the Alaska Federation of Natives entitled, "The AFN Report on the Status of Alaska Natives: A Call for Action," a report that had been prepared at the request of the Committee. The second, held on May 27 in Anchorage, Alaska, was on the subject of the status of Alaska Natives, but was not confined to the AFN report.

The Alaska Federation of Natives (AFN) report starkly documented the growing crisis. In many Native villages, the incidence of health and social problems, especially those resultant from alcohol abuse, is tragically high and appears to be increasing. For example:

virtually every Alaska Native family has been affected by alcohol abuse and senseless death;

Native males between 20 and 24 years of age are killing themselves at a rate 14 times the national average;

the murder rate among Alaska Natives is four times the national average;

the Native mortality rate is more than three times the national average, and a significant percentage is alcohol-related;

both the Native infant mortality rate and the Fetal Alcohol Syndrome rate are more than twice the national average; and

although Natives make up only 16 percent of the state's population, they make up 59 percent of all persons incarcerated for violent crimes and 38 percent of those convicted of sex-related offenses.

The victims of the violence are Native children, family members, and friends within the Native community. It is not random nor does it extend outside the Native community.

The AFN report also documents joblessness reaching nearly 60 percent among Native adults in western Alaska; increased need for cash for basic needs, but sharply lower per capita incomes in the remote, high-cost regions of the state; heavy reliance on public sector spending for jobs in a time of dramatically decreased Federal and State expenditures; and, to a lesser extent, dependence upon transfer payments as a source of income. The report also describes persisting patterns of low educational achievement at all grade levels across the state in predominantly Native school districts. Further, the report points out that the Native population continues to grow, and the Natives most at risk—children and young adults—are the fastest growing segment of the population.

These data were supported and elaborated upon by witnesses testifying at the hearing of the Select Committee and in letters to the Committee.

Witnesses also told the committee that many of the problems that were subject of the hearings were not new problems. In 1968, a Federal government study examining the land rights of Alaska Natives described the nearly 200 villages remote from the road system of the state as places of few jobs, low incomes and high prices; where houses were dilapidated and lacked water and waste disposal systems, where educational opportunity was limited and achievement was low; and where the health status was substantially inferior to that of other Alaskans.

In the last two decades, some progress has been made as Federal and State governments have sought to assist Alaska Natives in improving the circumstances of their lives. And with new opportunities provided by a framework of self-determination, Alaska Natives have undertaken to give leadership to those efforts.

It was in 1971 that the Congress enacted the Alaska Native Claims Settlement (ANCSA). The Act was celebrated as a major accomplishment by Alaska Native organizations from throughout the state, for they had helped shape a land claims settlement unlike any other in history. With its emphasis upon self-determination by Alaska Natives as shareholders in over 200 profit-making corporations and freedom from the oversight of the Bureau of Indian Affairs, the act was seen as giving promise of a much brighter future for the Natives of Alaska.

Similarly promising was the enactment of the Indian Self Determination and Education Assistance Act by the Congress in 1975 Under its provisions, programs of the Bureau of Indian Affairs and the Indian Health Service are being contracted to Alaska Native entities for their performance. It was also in 1975 that the State of Alaska abolished its centrally-controlled system of village schools and replaced it with 23 rural educational attendance areas having regionally elected school boards.

In the intervening years, the Congress has adopted extensive amendments to the Alaska Native Claims Settlement Act, amended the Indian Self Determination and Education Assistance Act, and enacted new laws intended to be of benefit to Alaska Natives and other American Indians.

Despite the adoption of such new public policies and establishment of programs intended to benefit Alaska Natives, and clear evidence of rual and substantial progress that many have made, the ability of Alaska Natives to maintain their distinct cultural identities and also participate fully in western society continues to be very much uncertain. The health status and the social and economic circumstances of Natives, especially those in remote villages, are all too much like those of twenty years ago, and, in some important aspects, appear to be worsening. The erosion of traditional and cultural supports by western society continues to seriously impact Alaska Natives.

To address these issues, the Alaska Federation of Natives, pointing out that no comprehensive study of the circumstances of Alaska Natives had been conducted since the 1968 study, proposed at the Select Committee's first hearing, the idea of a joint commis-

sion on the status of Natives. The proposal was supported by virtually all witnesses who spoke to the subject at the two Committee hearings.

The proposed commission would be jointly sponsored by the Federal and State governments because both levels have obligations and responsibilities affecting the welfare of Alaska Natives. Alaska's 85,000 Natives, like other Native Americans, are eligible for services from the Bureau of Indian Affairs, the Indian Health Service, the Administration for Native Americans, and for other Federal programs to benefit American Indians. They are also citizens of Alaska, and as such, attend public schools and colleges, participate in health and welfare programs of the State, and look to the State for law enforcement and the administration of justice. Except for their allotments they hold individually and lands they own through their corporations which are undeveloped, Natives are subject to the same personal and property taxes as other Alaskans.

MAJOR PROVISIONS OF THE BILL

The Joint Commission that would be established by S. 1364 has as its goal the development of recommendations to the Congress and the State of Alaska that would help assure that Alaska Natives have life opportunities comparable to other Americans, at the same time respecting their Native cultures, traditions, and special status. It would pursue this goal by conducting a comprehensive analysis of the social and economic status of Alaska Natives, reviewing the effectiveness of public policies and programs, by conducting public hearings, and by developing recommendations for policy and program changes.

Voting members of the Commission would be appointed by the President of the United States and the Governor of Alaska. Each would appoint seven members, naming one of them in each case as a co-chairman. At least three of the presidential appointees would be Alaska Natives and no more than two of them could be Federal officials or employees. In addition, there would be an ex-officio membership consisting of the chairmen and ranking minority members of Congressional committees having jurisdiction over Alaska Native issues, members of the Alaska delegation to the Congress, and the presiding officers of both houses of the Alaska legislature.

The Commission would be authorized $700,000 to employ staff and consultants, carry out research, appoint task forces, conduct public hearings, and prepare its report. State participation in the Commission would be contingent upon an agreement between the State and the Federal government for sharing of expenses of the Commission.[1]

Federal agencies would be authorized to make facilities and personnel available to the Commission on a non-reimbursable basis.

Eighteen months after its first meeting, the Commission would be required to present its recommendations to the Congress and the State of Alaska, and to make them available to Native villages

[1] The Governor of Alaska has made a commitment to budget State funds to match equally the Federal appropriation for the Commission.

and organizations and other interested organizations. Six months later, the Commission would cease to exist.

LEGISLATIVE HISTORY

S. 1364 was introduced to establish a Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives on July 20, 1989, by Senator Murkowski for himself, and Senators Stevens, Inouye, and McCain, and was referred to the Select Committee on Indian Affairs.

The Select Committee held a hearing on S. 1364 on August 3, 1989. All witnesses, except for the Bureau of Indian Affairs, supported the establishment of a joint commission, though they did not agree on how Alaska Native members of the Commission should be selected. In endorsing S. 1364, the Governor of Alaska told of his commitment to budget State funds to match the Federal appropriation and to have his appointments follow the pattern of representation prescribed for presidential appointments.

The Assistant Secretary for Indian Affairs, in opposing the establishment of a special commission, urged, instead, the formation of a task force, and criticized certain exemptions from conflict of interest laws and the Federal Advisory Committee Act, limitations on the power of the President to remove appointees, the costs of compensation for members and staff of the proposed commission, and a provision that would require Federal agencies to provide personnel and facilities to the commission.

As will be noted below, the Committee substitute for S. 1364 undertakes to address the objections of the Administration and to be responsive to comments of other witnesses.

CHANGES FROM S. 1364 AS INTRODUCED

The Committee substitute for S. 1364 reflects the following substantive changes from S. 1364 as introduced:

1. The definition of "Alaska Native" has been deleted, because as given in the original bill, the definition was too restrictive (excluding Alaska Natives of less than one-quarter blood quantum and those born after 1971), and because a definition of "Alaska Native" is not required by the purpose of this bill.

2. A provision of the bill limiting the authority of the President to remove appointees has been deleted.

3. A provision has been added to require that the President and the Governor of Alaska give careful consideration to recommendations for appointment to the Commission that are made by Alaska Native villages and regional and statewide Native organizations.

4. A provision has been added to fix the office of the Commission in the State of Alaska.

5. The number required to constitute a quorum has been increased from seven to eight.

6. The provision for Commission compensation has been changed to clarify that members of the Commission are not full-time employees, but are only to be compensated when actually engaged in the performance of duties as authorized by the Commission.

7. The provision for a Federal-State agreement for sharing expenses of the Commission has been clarified by identifying the

President as the authorized signatory of the agreement with the Governor.

8. Provisions for distribution of the Commission's report have been amended to assure that it is made available to Alaska Native villages and organizations and other groups and individuals.

9. The exemption from conflict-of-interest laws has been limited to Commission members, eliminating application of the exemption for attorneys and other experts employed by the Commission.

10. A provision has been added to authorize the appointment of task forces, require that their scope of work be defined and that each be chaired by a member of the Commission, who would also preside at any hearing conducted by a task force, allow payment of travel costs (but no compensation for task force members), and prohibit employment of special staff by task forces.

11. Provisions which would have required Federal agencies to furnish facilities or personnel to the Commission upon the request of either co-chairman have been modified to authorize Federal agencies to make facilities or personnel available upon the request of both co-chairmen.

12. Instead of authorizing "such sums as are necessary," the appropriation for the work of the Commission has been authorized to be $700,000 over its two-year life.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

The Select Committee on Indian Affairs, in open business session on September 15, 1989, by a unanimous vote and with a quorum present, recommends that the Senate pass the amendment in the nature of a substitute for S. 1364.

SECTION-BY-SECTION ANALYSIS

Section 1—Findings and purposes

Section 1 sets forth the findings of the Congress to be that there is a growing social and economic crisis among Alaska Natives, characterized by, among other things, alcohol abuse, grave health problems, low levels of educational achievement, joblessness, a lack of employment opportunities, and a growing dependency upon transfer payments; and that these conditions exist despite adoption of public policies intended to assist Alaska Natives in protecting their traditional cultures and lifeways, and in encouraging economic self-sufficiency and individual, group, village, and regional self-determination.

In this section, Congress also declares the purpse of the Joint Federal-State Commission to be that of identifying, with the participation of Alaska Natives, specific actions that may be taken by the United States and the State of Alaska to help assure that public policy goals are more fully realized among Alaska Natives.

In this section, and throughout the bill, "Alaska Natives" refers to persons of Eskimo, Indian, and Aleut heritage.

Section 2—Establishment of the Commission

Subsection (a) provides for the establishment of a "Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives."

Subsection (b)(1) describes the membership of the Commission as consisting of persons appointed by the President and the Governor of Alaska and of ex-officio members. Seven persons are to be appointed by the President and seven are to be appointed by the Governor of Alaska.

This subsection requires that at least three presidential appointees are to be Alaska Natives, a requirement that reflects the Committee's view that active engagement of Alaska Natives in the work of the Commission is not only consistent with principles of Native self-determination, but essential to identifying and prioritizing issues to be addressed and in shaping of recommendations that will produce positive and appropriate change.

This subsection also provides that no more than two of the presidential appointees may be Federal officers or employees, a limitation the Committee believes to be reasonable, since, in large part, it is Federal policies and programs which are to be the subject of the Commission's analysis.

Although S. 1364 does not impose similar requirements or limitations on appointments to be made by the State of Alaska, the Governor of Alaska informed the Committee at its August 3, 1989 hearing that he will appoint at least three Alaska Natives and no more than two States officers or employees.

This subsection also identifies the ex-officio members of the Commission as the chairmen and ranking minority members of the Select Committee on Indian Affairs and the Energy and Natural Resources Committee of the U.S. Senate, and the Interior and Insular Affair Committee of the U.S. House of Representatives; the three members of the Alaska congressional delegation; and the presiding officers of the Alaska Senate and the Alaska House of Representatives; or their designated representatives.

Subsections (b)(2) through (b)(8) require that the first meeting of the Commission be held within thirty days after appointments are accomplished, identify the appointees as the voting members, require that the President and the Governor each name a co-chairman, require that each appointing authority consider recommendations for appointments made by Native villages and regional and statewide organizations, authorize the Commission to adopt rules, and fix a quorum at eight voting members.

The Committee considers the requirement that both the President and the Governor consider recommendations for appointments made by village, regional, and statewide organizations to be an exceedingly important provision. Further, given the leadership role of the Alaska Federation of Natives in this issue and the broadly-based membership of its governing board, it is the Committee's view that no Commission members should be appointed until the President and the Governor, respectively have received recommendations (exceeding the number of appointments to be made) from that organization. In the Committee's judgment, it is imperative that Alaska Native appointees be selected from across the state, and they be representative not only of the different ethnic groups, but of the varying values, interests, and perspectives of Alaska Natives.

With regard to other appointments, the Committee points out that there is no requirement that all members be Alaska residents,

and observes that the Commission may benefit from the appointment of one or more persons who are nationally recognized for their knowledge and skills in addressing the tasks that confront the Commission.

Subsections (c)(1) through (c)(3) provide that daily rates of pay for members of the Commission who are not employees of the Federal or State government shall be compensated at a daily rate equal to the daily rate for GS–18 of the General Schedule, and authorize payment for costs associated with travel. Since the Committee intends that members not be full-time employees, compensation would be paid them only for participation in periodic meetings, hearings, during travel, or while engaged in other activities specifically authorized by the Commission.

Subsection (d) requires the State to enter into an agreement with the President for sharing in the expenses of the Commission in order to participate in its proceedings.

Subsection (e) fixes the principal office of the Commission in Alaska.

Although the Commission will be Alaska-based, and most of its meetings will be held in Alaska, the Committee points out the importance of holding some of its meetings in Washington, D.C. to accommodate ex-officio members, especially early in the life of the Commission during which it is anticipated that the Commission would be defining its scope of work and setting schedules, and later, as the Commission is proceeding to complete its work.

Section 3—Duties

Section 3 prescribes the duties of the Commission to be to conduct an analysis of the social and economic status of Alaska Natives and the effectiveness of Federal and State programs affecting them, and to recommend specific actions to the Congress and the State of Alaska to improve life opportunities for Alaska Natives. It also requires that the report of the Commission be completed within 18 months of the date of its first meeting, and that the Commission submit copies of its study and recommendations to the President, the Congress, the Governor of Alaska, the Alaska legislature, and make such report available to Alaska Native villages and organizations and to the public.

The requirement that the Commission complete its report within 18 months is not intended by the Committee to deny the Commission the authority to report and recommend actions before the final report is issued. If the Commission has completed an analysis and is prepared to make recommendations that promise improvement in life opportunities for Alaska Natives, it would be unwise to defer such recommendations to a later time.

Section 4—Powers

Subsection (a)(1) authorizes the Commission to employ staff and to compensate such persons at a rate not exceeding the maximum rate for GS–18 of the General Schedule, and to contract for the services of consultants, and limits compensation for such consultant to the daily rate to that same grade level and step.

Subsection (a)(2) exempts Commission members from Federal conflict of interest laws, since the Commission has neither regula-

tory nor policy-making authority. Federal officers or employees subject to conflict of interest laws and regulations would not, of course, become exempt by being named to the Commission.

Subsection (b)(1) authorizes the Commission to hold hearings and to take other actions deemed necessary to the accomplishment of its duties.

Subsection (b)(2) authorizes the Commission to establish task forces, requiring that the scope of work of each be defined and that each be chaired by a member of the Commission (who would also preside at any hearing authorized), allow payment of travel costs of task force members, but no compensation for service as task force members, and prohibit employment of special staff by task forces.

Since the Commission is authorized to employ staff, the Committee anticipates that the Commission will consider staff requirements at such time as it authorizes a task force, and make its staff available to such task force as required.

Subsections (c) through (e) authorize the Commission to accept funds from the State of Alaska and other appropriate sources, to secure information from Federal agencies, and exempts the Commission from provisions of the Federal Advisory Committee Act.

Exempting the Commission from the provisions of the Federal Advisory Committee Act is premised upon the Committee's conclusion that the Act should not be applicable to committees established and funded jointly by a State and the Federal government, just as the Act does not apply to a body created by the United States and a foreign nation. There is no requirement in S. 1364 that any Federal officials be appointed, for instance, but the Federal Advisory Committee Act would require that a Federal officer or employee be present for a meeting to be conducted. Further, S. 1364 provides for co-chairmen to give leadership to the work of the Commission, but the Federal Advisory Committee Act would require that a Federal officer or employee call or give advance approval to scheduling a meeting and to approve the agenda. In summary, the requirements set out in the Federal Advisory Committee Act are more appropriate to a committee acting in an advisory capacity only to a Federal agency than to a State-Federal commission reviewing both State and Federal programs and making recommendations to both levels of government.

Subsection (f) authorizes Federal agencies to make personnel and facilities available to the Commission upon the request of both co-chairmen of the Commission; it also authorizes the Commission to use the mails in the same manner as Federal agencies.

Given the support the State of Alaska has expressed for establishment of the Commission, the Committee anticipates that the State of Alaska will authorize State agencies to make information, facilities, and personnel available to the Commission. For similar reasons the Committee anticipates that Alaska Native organizations, including Public Law 93-638 contractors, will provide information, facilities, and personnel upon request.

Section 5—Termination

Section 5 provides that the Commission will cease to exist six months after the Commission submits its report, and provides for

the transfer of its records to the National Archives and Records Administration.

Section 6—Authorization of appropriations

Section 6 authorizes $700,000 to be appropriated for the two-year life of the Commission, and authorizes borrowing of funds from the contingent fund of the Senate until the funds are appropriated.

OTHER CONSIDERATIONS

1. Although S. 1364 is explicit in its statement of the Commission's goal and needs that are to be addressed, it does not set the agenda, because it is the Committee's view that the full participation of Alaska Natives, presidential appointees, and the State of Alaska in the shaping of the agenda is required, and that this can be best accomplished within the Commission.
2. In approving the establishment of the Commission, the Committee is not unaware that some observers are concerned that formulation and adoption of policies by public agencies may be deferred pending completion of the Commission's work. Although sweeping organizational changes or policy shifts might properly await the Commission's conclusions, the Committee is confident that agencies will not use the establishment of the Commission as an excuse for failing to take actions consistent with their missions. As the Committee has noted above, the Commission's activities may stimulate positive changes in programs or policies before the deadline for its formal report.
3. Given that much of the Commission's data-gathering will be carried out in 1990 during the decennial census, the Committee expresses its hope that the Department of Commerce will meet any reasonable request of the Commission for early release of data gathered on Alaska Natives.
4. The Committee is aware of the need to protect the confidentiality of certain information that may be supplied to the Commission in the course of its work, but no special provision is required since, absent any exemption, the provisions of the Privacy Act apply.

COST AND BUDGETARY CONSIDERATIONS

The cost estimate of S. 1364, as amended, as evaluated by the Congressional Budget Office, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 20, 1989.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1364, a bill to establish a Joint Federal-State Commission on Policies and Programs Affecting Alaska Natives, as ordered reported by the Senate Select Committee on Indian Affairs, September 15, 1989.

This bill would establish a two-year commission to study and make policy recommendations regarding the impact of federal and

state policies affecting Alaska Natives. S. 1364 would authorize the appropriation of $700,000 for the federal share of the costs of the commission, and would authorize the commission to borrow from the contingent fund of the Senate until the necessary funds are appropriated. Assuming appropriation of the full amount in fiscal year 1990, CBO estimates outlays of $175,000 in fiscal year 1990, $350,000 in fiscal year 1991, and $175,000 in fiscal year 1992. The bill would also authorize federal agencies to contribute facilities and services to the commission. The commission would not be required to reimburse the agencies for the cost of these services, and the bill does not authorize any additional funds for this purpose. Because the scope of this study has not yet been defined, we cannot estimate how much this provision would cost federal agencies, but we do not expect such costs to be significant.

Assuming participation of the Alaska government in this commission, Alaska could spend up to $700,000 over the next several years for this purpose.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Marta Morgan, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1364, as amended, will have no regulatory impact and only minimal paperwork impact.

EXECUTIVE COMMUNICATIONS

Set forth below is the testimony of the Honorable Eddie F. Brown, Assistant Secretary of the Interior for Indian Affairs, on August 3, 1989:

STATEMENT OF EDDIE F. BROWN, ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, I am pleased to be here to present the Administration's views on S. 1364, which would establish a joint federal-state commission on policies and programs affecting Alaska Natives.

While we support the partnership approach in reviewing the problems of Alaska Natives and developing solutions that is contained in S. 1364, we believe the creation of a Commission is not the proper vehicle to address those problems. Therefore, we cannot support S. 1364.

In general, the Administration has found that Commissions and their studies do not solve the problems that they are created to address, and commonly are the most costly way to attempt to reach solutions. The Administration has a number of specific objections to the Commission proposed in this bill. The Commission would be prohibitively expensive (salary expense for 14 GS–18 level positions for

over 18 months, support staff, travel and hearing expenses); it would be exempt from the Federal Advisory Commission Act; and its employees and consultants would be exempt from the conflict of interest laws. In addition, the prerogative of the President to remove political appointees is restricted, and the state co-chairman is potentially given the power to direct services of the executive branch. Most importantly, we believe that these funds can be better spent assisting the Alaska Natives now, rather than being spent to fund another Commission.

We do share the concerns of this Committee on the need to review public policies and programs affecting Alaska Natives, and the desire to make such policies and programs more effective. We commend the Committee and its Chairman for this bipartisan approach to looking at the problems faced by Alaska Natives, and in developing solutions. I also believe it is incumbent on all of us when faced with the kind of alarming statistics on Alaska Natives, to support unique and innovative solutions. I am a firm believer that cooperative solutions developed at the local level are the best way to deal with local problems.

Various commissions have been formed and reports relating to the Alaska Natives have been prepared over the years. In addition, Congress has held numerous hearings on the Alaska Native Claims Settlement Act amendments, particularly the so-called 1991 amendments, the Tongass National Forest, the Arctic National Wildlife Refuge, the Alaska National Interest Lands Conservation Act (ANILCA), Marine mammals, and many other issues affecting Alaska Natives. Numerous statutes have been passed in the last 20 years attempting to meet the Alaska Native needs, yet these efforts could go further in promoting the desired goals of economic independence, self-determination, and preservation of the cultures of the Alaska Native people.

Now is time to do something with all of that data that has been acquired. Therefore, I am proposing, on behalf of the administration, an alternative solution which will more quickly begin to meet the current needs of Alaska Natives.

I propose the formation of a cross-Agency task force composed of appropriate Federal agencies involved in Alaska Native affairs, working in partnership, concert, and full consultation with the Governor of the State of Alaska, and three representatives selected by the Alaska Natives. The task force would immediately review all existing and draft studies relating to policies and programs serving Alaska Natives to determine the currency, validity, and relevance of their findings. The task force would further make sure that the data and particularly the problems defined in those studies are still current (and if not current, collect up to date data), perform complete analyses and then develop concrete recommendations. We be-

lieve this approach would be a more efficient and economic resolution of these pressing problems.

It is my hope that this Committee would support the alternative I am offering. Secretary Lujan is prepared to immediately contact his counterparts in the Cabinet to set the Federal portion of this task group in motion as we do not wish to delay any longer on our obligations to solve these problems. It is my hope that the Governor will work with this task force and make the comparable commitment of resources previously offered for the Commission proposed in this bill. Lastly, and most importantly, we (the State and Federal agencies) cannot and would not begin to attempt to address the problems of Alaska Natives without their full participation. Therefore, I hope the Alaska Natives will join this Administration in a new pro-active partnership in finding solutions for Alaska Native problems.

Thank you for this opportunity to testify and I would be pleased to answer any questions the Committee may have.

CHANGES IN EXISTING LAW

In compliance with subsection 12 of rule XXVI of the Standing Rules of the Senate, the Committee finds that the enactment of S. 1364 will not effect any changes in existing law.

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